

DELEGATION OF AUTHORITY

DATE: 10/25/2010

**THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)**

14-43. Planning and Implementing Off-site Response Actions

1. PURPOSE AND LEGAL AUTHORITY.

A. Purpose.

- (1) To redelegate the authorities contained in Delegation 14-43 issued by EPA Headquarters on February 25, 2002.

B. Authority. Pursuant to Section 121(d)(3) of CERCLA, as amended, 42 U.S.C. § 9621(d)(3), and in accordance with 40 Code of Federal Regulations (CFR) 300.440, the authority to:

- (1) Determine the acceptability, and continued acceptability, of any facility being considered for the off-site treatment, storage or disposal of CERCLA waste (40 CFR 300.440(d)(1));
- (2) Issue an initial determination of unacceptability if a facility does not satisfy the criteria for releases and relevant violations, notify the owner or operator of the initial determination of unacceptability, and notify the responsible agency in the State in which the facility is located of the unacceptability (40 CFR 300.440(d)(1));
- (3) Shorten or eliminate the 60-day review period in extraordinary circumstances and notify the facility owner or operator of the date of unacceptability (40 CFR 300.440(d)(9));
- (4) Provide for, and conduct, an informal conference if requested by an owner or operator of a facility in receipt of an initial determination of unacceptability (40 CFR 300.440(d)(4));
- (5) Decide if the information provided either at the informal conference or in written comments is sufficient to show that a determination of acceptability would be appropriate (40 CFR 300.440(d)(6));
- (6) Extend the 60-day review period if more time is required to review the submissions and notify the facility owner or operator of the extension (40 CFR 300.440(d)(8)); and,

DELEGATION OF AUTHORITY

DATE: 10 / 25 / 2010

**THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)**

14-43. Planning and Implementing Off-site Response Actions

- (7) Reconsider an initial determination of unacceptability for a facility and notify the facility owner or operator of the decision (40 CFR 300.440(d)(7)).

2. TO WHOM DELEGATED.

- A. The authorities in 1.B.(1) – (6) are delegated to the Director, Office of Environmental Stewardship (OES).
- B. The Director, OES further delegates the authority to make determinations regarding acceptability under 1.B.(1) and to provide and conduct an informal conference under 1.B.(4) to the Regional Off-Site Contact (ROC), Technical Enforcement Office, OES.
- C. The authority in 1.B.(7) remains under the Regional Administrator.

3. REDELEGATION AUTHORITY.

- A. The authority to make determinations regarding acceptability under 1.B.(1) may not be further redelegated.
- B. The authority to issue initial notices of unacceptability under 1.B.(2) may be redelegated to the Manager, Technical Enforcement Office, OES, and no further. However, the authority to issue initial notices of unacceptability that include a decision to shorten or eliminate the 60-day review period under 1.B.(3) may not be redelegated below the Director, OES.
- C. The authority to shorten or eliminate the 60-day review period under 1.B.(3) may not be further redelegated.
- D. The authority to provide and conduct an informal conference under 1.B.(4) may not be further redelegated.
- E. The authority to determine the sufficiency of information presented under 1.B.(5) may not be further redelegated.
- F. The authority to extend the 60-day review period under 1.B.(6) may not be further redelegated.

DELEGATION OF AUTHORITY

DATE: 10/25/2010

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-43. Planning and Implementing Off-site Response Actions

- G. The authority to reconsider an initial determination of unacceptability under 1.B.(7) may be delegated to the ROC's Division Director, or equivalent, and no further. Determinations made after such reconsideration shall be made with the concurrence of the Regional Counsel or the Regional Counsel's delegate.
4. COORDINATION. The OES Legal Office Manager, or his/her designee, is responsible for any necessary consultation with the Office of Regional Counsel, or his/her designee, regarding significant counseling issues.
5. LIMITATIONS.
- A. In issuing initial determinations of unacceptability under 1.B.(2) and deciding the sufficiency of information under 1.B.(5), the decision maker shall obtain the concurrence of the Regional Counsel or the Regional Counsel's designee. The ROC should also coordinate and consult with the Regional Counsel or Regional Counsel's designee in conducting the informal conference.
- B. These authorities may not be redelegated without the concurrence of the Regional Directives Officer, Human Resources Office, Office of Administration and Resource Management.
6. ADDITIONAL REFERENCES.
- A. Executive Order 12580, Superfund Implementation January 23, 1987
B. Executive Order 13016, August 28, 1996
7. SUPERSESSION. None



H. Curtis Spalding
Regional Administrator